



ROBIN J. VOS

STATE REPRESENTATIVE • RACINE COUNTY

Testimony on Senate Bill 107
Creating a statewide standard for landlord/tenant relations
Assembly Housing Committee
June 22, 2011

Chairman Murtha and members of the Assembly Housing Committee:

Thank you for holding a hearing today on Senate Bill 107 which prohibits ordinances that place certain limits or requirements on landlords.

I have worked with Sen. Lasee, the author of this bill, to move this legislation forward. It is an effort to protect the rights of property owners that are being infringed upon by local regulators in certain communities. Essentially, the legislation would assist landlords in screening prospective tenants to ensure a reasonable chance of receiving payment for the use of their rental unit and to maintain the investment in their property.

This includes using such tools as:

- Accessing financial records and employment history.
- Having the ability to show or lease the property to the next possible tenant before the current tenant has completed their occupancy.
- Allowing the use of criminal background checks to make sure that they, their tenants, and the neighborhood remain safe.
- Clarifying the legislature's intent that deduction from security deposits is a quicker and less expensive method for both tenant and landlord to recover costs associated with suspected damages to the property.

Throughout many Wisconsin communities, these provisions are simply common sense. However, in a few communities the rights of property owners to do these simple things are under the threat of regulation. SB 107 ensures that local regulators cannot infringe on property owners rights through new restrictions on the ability to make appropriate background checks and the ability to show, lease or care for their property.

As you may know, this legislation recently passed the state Senate with two amendments.

- SA 2 is a technical amendment that adds clarifying language to specify that provisions shall not be placed in ordinances that prohibit *or limit* certain actions towards landlords.
- SA 3 also adds language stating that an ordinance cannot place requirements on landlords with respect to security deposits.

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State Representative
77th Assembly District

Brett Hulsey

Serving Madison,
Shorewood Hills & Middleton

**Testimony on AB 155 (SB 107) - Landlord Ordinance Prohibition
June 22, 2011**

Good morning, Mr. Chair and members of the committee. Thank you for the opportunity to address you about an issue very important to many of my constituents.

I have been on the board of County Supervisors for 13 years. In that time, I have seen why protecting renters is so necessary.

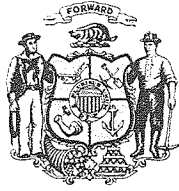
My district has many renters in it, all of whom would be affected by this law, and many of whom are concerned about the changes proposed.

Of great concern is a provision that would allow landlords to require that tenants' incomes be three times higher than the monthly rent. In these difficult economic times, when many families are struggling to keep food on their tables and a roof over their heads, when many families barely get by living paycheck to paycheck, this provision takes away a vital protection for some of our most vulnerable citizens.

Allowing renting to be dependent on providing private information, such as a social security number, removes a tenant's ability to pursue legal recourse in case such information is used maliciously by the landlord. While landlords deserve to have tenants whose actions will not result in substantial financial loss on the part of the landlord, tenants must retain some basic assumption of privacy.

Privacy is also targeted by another provision allowing landlords to show the apartment to prospective tenants immediately after a new lease has begun. This provision encourages tenants to make uninformed, quick decisions about whether to renew a lease for fear of losing the apartment before even having the chance to learn the problems that may exist with the property.

Finally, of concern is a provision allowing landlords to consider any criminal record at all when deciding to rent to a particular person, regardless of when and why that record was created. This will inevitably lead to renters getting denied because of mistakes made as teenagers, or because they have a record from 30 or 40 years ago. Even prospective renters who were arrested, but not convicted, can be denied, simply because of a mistake made by an officer or a witness.



WISCONSIN STATE SENATE
DALE W. SCHULTZ

Thank you Chairman Murtha. I thank you and the Committee for the hearing on AB 155/SB 107.

The purpose of SB 107 as amended is to further uniformity in tenant/landlord relations.

Specifically, the amendment added in the Senate would ensure uniformity throughout the state in the area of security deposits. It would retain the legislature's intent that deductions from security deposits are a more efficient and less expensive method for both tenants and landlords. It would also dramatically reduce the amount of litigation needed to settle the few but costly fraudulent attempts by some tenants which ultimately results in higher rents for all tenants.

In simple language, the amended bill will require all municipalities to follow Wisconsin Administrative Code in the area of security deposits. Current law provides tenant protections while at the same time not encumbering landlords with mountains of paperwork which essentially give irresponsible tenants motivation to play "gotcha" with landlords. These games are not without costly legal consequences which ultimately lead to higher rents for all tenants.

Current State Administrative Code provides protections to tenants. It requires landlords to document any damages for which they withhold part or all of a security deposit, and the courts in turn require a landlord to provide adequate documentation and proof if they are to prevail in a legal challenge.

So what we are talking about here, is bringing further uniformity to tenant/landlord relations and ensuring both parties clearly understand the rights and responsibilities involved.

Thank you for the opportunity to testify and I urge the Committee to support SB 107 as passed by the State Senate.



WISCONSIN REALTORS® ASSOCIATION

John P. Horning, Chairman
email: jphorning@shorewest.com

William Malkasian, President
email: wem@wra.org

June 22, 2011

TO: Members, Assembly Committee on Housing

FROM: E. Joe Murray
Director of Political and Governmental Affairs
Wisconsin REALTORS® Association

RE: Assembly Bill 155/Senate Bill 107

The Wisconsin REALTORS® Association (WRA) supports AB 155/ SB 107, legislation that allows landlords to properly and thoroughly screen potential tenants. The WRA believes AB 155/SB 107 provides the needed authority to fairly review a prospective tenant's financial, rental and legal background to protect the owners of the rental property, as well as other tenants.

Assembly Bill 155/Senate Bill 107 prohibits a municipality from placing limitations on a landlord's use of important information when reviewing the background of prospective tenants:

Tenant's Financial Condition – Monthly household income, occupation, and credit information are important indicators of a prospective tenant's ability to meet the monthly rent obligation along with other expenses (water, electric and gas). If a prospective tenant has a poor history of paying their bills or meeting their financial obligations on a consistent basis, the landlord should be aware of this before entering into a lease. Quality screening necessitates this basic information.

Legal Issues – Court records are equally important indicators of a prospective tenant's suitability for a specific rental property. In Wisconsin, landlords and tenants have the ability to check on the prospective tenant's rental history through CCAP (the Consolidated Court Automation Programs). If the applicant has a record of failing to pay rent, utilities or other issues related to rental property, especially eviction, the landlord should know this in advance of any lease agreement.

Prospective Tenant Showings – AB 155/SB 107 would allow landlords and property managers to show property to a prospective tenant and enter into a lease agreement with new tenants while the current tenant is living in the property. Any such arrangement must be acceptable to the current tenant and the landlord, and both sides must cooperate to allow the owner to find and sign new tenants. If landlords are not allowed to show a property before a lease expires, the end result is an empty apartment. This provision allows for an orderly transition between the current occupant and a new occupant.

The WRA believes AB 155/SB 107 would remove unnecessary limitations on the ability of residential landlords and property managers to properly screen prospective tenants. Many, if not most, landlords and property owners are small "mom and pop" operations and they tend to operate on small margins. One bad tenant or an unnecessarily empty unit can seriously jeopardize their financial situation in any given property. Good screening is the essential ingredient for a successful residential lease agreement between the property owner and the renter.

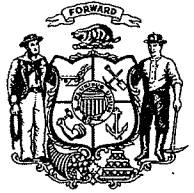
The WRA urges your support for AB 155/SB 107.





Frank Lasee

WISCONSIN STATE SENATOR
FIRST SENATE DISTRICT



Thank You, Chairman Murtha and Committee Members for having a hearing on this bill today:

This bill is both about landlords and good tenants. When landlords aren't permitted to screen out bad tenants and bad risks, good tenants, good people and good families end up paying more in rent.

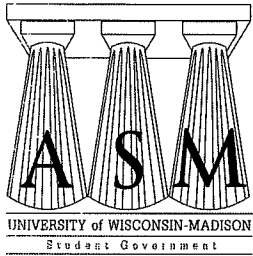
All it takes is one bad renter to move into a complex with others and pretty soon your good renters move away. When a landlord loses money, he or she has to charge higher rents. That affects all renters.

This bill standardizes the law to prevent municipalities from placing stricter standards on landlords, to prevent a patchwork of landlord/tenant ordinances. It has the support of the Apartment Association of South Central Wisconsin and Town of Madison Chief of Police Scott Gregory, who stated "It simply doesn't make sense to prohibit a landlord from using monthly household income, rental history or credit information in screening prospective tenants. Like mortgage companies, who need to make a determination whether to lend a person money to purchase a home, a landlord needs to determine if the prospective tenant is a 'good risk' and will most likely pay their rent."

We hold landlords responsible when criminal activities take place on their property. It only makes sense to give them the ability to identify high-risk renters.

Thank you,

Frank B. Lasee
Senator Frank Lasee



Associated Students of Madison

Student Activity Center, Room 4301, 333 East Campus Mall, Madison, WI 53715-1380 •

www.asm.wisc.edu • University of Wisconsin - Madison

phone: 608.265.4ASM • fax: 608.265.5637 • asm@studentorg.wisc.edu

June 21, 2011

Dear Representative Murtha,

ASM Student Council voted in opposition to Wisconsin State Senate Bill 107, in their meeting last Saturday. Many of the ordinances prohibited by this bill are non-controversial, common-sense consumer protections that foster a good relationship and a fair environment for both property owners and renters. Council viewed the bill as harmful to all renters in the city of Madison, particularly student renters.

If passed, SB107 would eliminate an ordinance that forbids landlords from denying a housing application based on income or rent-to-income ratio, which will pose problems for many students. Landlords typically favor an income around three times more than the rent. For students paying for their own housing, the standard student wage between \$8 and \$10 an hour makes it highly unlikely average students will meet this rent-to-income threshold.

The bill would also limit housing options available to international students by the elimination of an ordinance that prohibits landlords from requiring Social Security numbers in applications. Social Security identification numbers are usually assigned to workers, not students.

Currently, the Madison Council is considering legislation to further delay the showing season to allow students more time to become acquainted with their property. SB107 would eliminate an ordinance preventing landlords from showing an apartment for future rental until after at least one quarter of the lease has elapsed. By not allowing Madison to determine an appropriate leasing season tailored to the needs of its residents, SB107 will result in a widespread renewal of leases by UW Madison students who do not know how effectively their landlords provide services. This would be detrimental to both first-time and experienced student renters.

SB107 also includes an amendment that would prevent local governments from regulating security deposits. This removes many Madison ordinances protecting tenant and student renter's rights. With this amendment, landlords could charge what they like on security deposits and change the amount whenever a lease is renewed. Common-sense Madison ordinances require documentation of anything removed from a security deposit, including a check-in and check-out system when tenants move in or out, and obligates landlords to pay interest on the security deposit. These ordinances are in place to create a healthy relationship

between the landlord and tenant, and their removal will harm students' ability to find agreeable housing.

This bill will eliminate one of the most reasonable Madison city ordinances, which requires landlords to notify tenants at least twenty-four hours in advance before showing an apartment. The bill only requires a twelve-hour notice, which is hardly sufficient time for a busy student.

ASM stands in opposition to SB107 because this bill will eliminate many city ordinances that work to create a positive, constructive relationship between a landlord and tenant. The passage of SB107 threatens Madison's ability to provide a secure, fair housing environment for student renters. Thus, ASM urges you to please vote no on SB107.

Sincerely,

The Associated Students of Madison

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MADISON OFFICE

31 South Mills Street, Madison, Wisconsin 53715

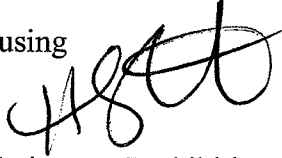
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LEGALAction
OF WISCONSIN

40 Years of Justice

TO: Assembly Committee on Housing

FROM: Heidi M. Wegleitner



RE: AB 155 / SB 107, relating to: Prohibiting Ordinances that Place Certain Limits on Landlords

DATE: June 22, 2011

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide civil legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. LAW represents low income tenants in landlord/tenant disputes and subsidized housing matters, including, but not limited to eviction cases and obtaining and maintaining access to housing.

This bill seeks to eliminate many ordinances which enhance housing access for Legal Action's client population in the City of Madison and Dane County, including those which restrict housing denials based on income, arrest and conviction record, and production of a Social Security Number. This bill also rolls back reasonable limitations on a landlord's ability to show and re-rent the premises in limited circumstances and additional protections for tenants from unlawful withholding of their security deposits. Madison's growing poverty rate and significant rental population make the proposed repeal of our landlord/tenant ordinances especially troubling. Local governments need the power to address the unique problems facing their communities.

1. AB155/SB 107 Reduces Housing Choice for Low-Income Madison Residents Further Concentrating Poverty and Segregating Communities.

This bill would greatly limit the housing opportunities for Legal Action's clients in Madison as they are, by definition, low income and could be effectively screened out of housing in the private rental market if private owners choose to enforce a minimum income policy. Madison ordinances regulate the use of minimum income and a minimum income-to-rent ratio in tenant screening. The ordinance protects persons from being "denied from housing based solely on a minimum income requirement or minimum income-to-rent ratio or other financial criterion of a similar nature as part of a tenant screening process if other reliable, demonstrable evidence of an applicant's actual ability to pay the rental amount exists and is provided by the applicant". MGO § 32.12(7)(a) & (c) - (i). This means that if an applicant can demonstrate an ability to pay under

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the same income-to-rent ratio and a comparable rent amount over the past 24 months, the landlord cannot use a minimum income requirement as the basis for denial.

Madison's minimum income ordinance does not prohibit taking monthly income into account in the screening process, but rather prohibits such a policy from being the sole basis for denial if a person can prove they can pay rent as required by the ordinance. The minimum income ordinance also allows the landlord to require a co-signor or guarantor if someone does not meet the income-to-rent ratio and some or all of the rent will be paid by a private person on the applicant's behalf. Thus, the ordinance provides landlords with plenty of security when dealing with low income persons with an otherwise positive rental history. The ordinance merely aims to eliminate arbitrary and/or otherwise unlawful denials by using an applicant's monthly household income as a pretext.

Prior to the passage of Madison's minimum income rule, the industry standard required applicants to demonstrate income of three (3) times the monthly rent to qualify for housing. In their recent publication "Out of Reach", the National Low Income Housing Coalition (NLIHC) found that 52% of Dane County renters would be unable to afford a 2 BR fair market rental unit based on HUD's definition of affordable rent as 30% of a renter's monthly income. A Dane County renter making minimum wage would have to work 79 hours per week to afford rent for a 1 bedroom rental unit, 93 hours for a 2 bedroom and 125 for a 3 bedroom rental unit. An affordable rent amount for a Dane County renter whose sole source of income is SSI is \$227, which \$515 less than the fair market rent for a one-bedroom unit. An affordable rent amount for a Dane County renter on W-2 is \$202, which is \$675 less than the fair market rent for a two-bedroom unit. As demonstrated by NLIHC data, regression to minimum income policies as an industry standard in Dane County would screen out all low-income disabled persons, W-2 families, the working poor and even the average income renters from a large section of our rental housing stock.

a. Public Policy Supports Expanding Housing Choice for Section 8 Assisted Renters.

The Section 8 voucher program was developed in response to public housing projects which had become racially-segregated concentrations of extreme poverty and criminal activity. The voucher program, which affords low-income tenants the opportunity to rent housing in the private market with the help of a rent assistance voucher, sought to reduce concentrations of poverty through greater housing choice and potential mobility. Recent studies, however, reveal the challenges to achieving that goal. Due to the extreme shortage of affordable housing, low-income families (like Section 8 households) are often priced out of the private housing market. Disabled, elderly and other minority groups are also adversely impacted by the lack of low-income housing as they are over-represented in Section 8 rent assistance programs. If local policies restricting arbitrary minimum income requirements are rescinded, Dane County's most vulnerable residents would suffer.

A tough housing market combined with rigid minimum income policies greatly limits the housing choice of low income renters in the Section 8 rent assistance programs which can lead to homelessness and termination from the Section 8 program. Alternatively, protecting equal opportunity for recipients of

Section 8 improves the chances of success for the program, promotes economically and racially integrated communities, and reduces concentrations of poverty.

2. AB 155/ SB 107 Eliminates Housing Protections for Persons with Arrest and Conviction Records which Disproportionately Impacts Communities of Color in Dane County.

The City of Madison's equal opportunity ordinance declares: "Discrimination against any of Madison's citizens or visitors endangers the rights and privileges of all. The denial of equal opportunity intensifies group conflict, undermines the foundations of our democratic society, and adversely affects the general welfare of the community. . . . Denial of equal opportunity in housing compels individuals and families who are discriminated against to live in dwellings below the standards to which they are entitled. . . . Provision for adequate safeguards against such discrimination is a proper and necessary function of City government." MGO § 39.03(1).

Madison and Dane County prohibit housing discrimination based on a person's arrest and conviction record unless the circumstances of the offense upon which the person was convicted bears a substantial relationship to tenancy and it has been less than two years since the person was placed on probation, paroled, released from incarceration or paid a fine for the offense. An offense bearing a substantial relationship to tenancy is one which "given the nature of the housing, a reasonable person would have a justifiable fear for the safety of landlord or tenant property or for the safety of other residents or employees." MGO § 39.03(4)(d)1-2; §§ 31.03(1)(2) & (4), 31.10, 31.11(e), D.C. Ords. The Madison ordinance provides a non-exhaustive list of such offenses, including disorderly conduct involving disturbance of neighbors or destruction of property, 2 or more misdemeanor drug convictions related to drug dealing or any drug related felonies, violent criminal activity, criminal destruction of property or at least 2 or more civil ordinance violation convictions relating to disturbance of neighbors or injury to persons or property. Both ordinances explicitly allow a landlord to take remedial actions in response to a drug abatement notice pursuant to Wis. Stat. § 823.113. Thus, landlords are provided ample authority with which to screen out tenants with a recent criminal record for offenses related to tenancy and may exercise rights under the rental agreement and/or a drug abatement notice to ensure their property is protected from harmful criminal activity.

Striking down local ordinances providing greater housing opportunity to persons marginalized by arrest and conviction records significantly interferes with our community's right to welcome and support returning offenders in their re-entry into civil society and enhance their ability to contribute productively and avoid recidivism. Moreover, it seeks to protect persons who have been denied based solely on being charged or arrested for a crime, if they were never convicted. Discrimination in housing based on arrest and conviction record disproportionately impacts communities of color. In 2009, the Dane County Task Force on Racial Disparities in the Criminal Justice System reported that nearly 50% of Dane County's young African-American males are in prison, incarcerated or on probation with Dane County having one of the highest rates of racial disparity in incarceration in the nation.

Housing is a necessity for maintaining a job, keeping a family together, supporting good schools and diverse communities. The restrictions on arrest and conviction records would allow a

landlord to forever deny housing to persons who have rehabilitated themselves. Striking down our arrest and conviction records protections will increase the chances of persons with those records being relegated to areas where landlords do not check conviction records and areas where they may risk a higher likelihood of re-offending.

Both the City of Madison and Dane County, as a recipient of federal funds for housing and development have an obligation to affirmatively further fair housing. Affirmatively furthering fair housing involves conducting an analysis of impediments to fair housing and working to eliminate those impediments. Precluding these equal opportunity ordinances which seek to mitigate the harmful collateral damage of having an arrest and conviction record greatly impairs our ability to comply with this federal fair housing law obligation and may jeopardize future funding vital to affordable housing and community development. Moreover, it interferes with our ability to expand housing choice, combat residential segregation and promote economically and racially integrated communities.

3. AB 155/ SB 107 Facilitates Arbitrary Collection of Social Security Numbers Enhancing the Risk of Identity Theft and Fraud.

A social security number is not necessary to conduct appropriate tenant screening. Both the City of Madison and Dane County prohibit a landlord from requiring a prospective tenant to produce or disclose their Social Security Number when applying for housing or executing a lease unless such disclosure is required by state or federal law. A landlord can still request a Social Security Number, but must notify the tenant that such disclosure is voluntary and the landlord may not deny the applicant housing on the basis of applicant's decision to withhold their Social Security Number. MGO §§ 32.12(7)(b), 39.04(a); § 31.15, D.C. Ords. The restrictions on regulating requirements to produce a Social Security Number will force many people to give their Social Security Numbers to unregulated landlords risking potential identity theft and fraud.

4. AB155/ SB 107 Rolls Back Madison Ordinances which Reasonably Limit Showing to 75 % of the Lease Term, Reasonably Regulate Re-Rental and Require Specific Written 24 hour Notice of Entry.

To foster positive landlord tenant relations and a tenant's right to exclusive enjoyment of the premises during the early stages of the lease, Madison passed an ordinance which provides that "no landlord may enter leased premises for the purpose of showing the premises to prospective tenants until one-fourth ($\frac{1}{4}$) of the lease period has passed." MGO § 32.12(8). Reasonable exceptions are provided to allow entry when subletting if a lease period is less than 9 months, when a summons and complaint for eviction has been filed, and when the landlord and tenant have otherwise agreed to showing dates and times in writing when the tenant has signed a notice of non renewal.

Madison ordinance also requires execution of a non-standard rental provision if a landlord seeks to re-rent the premises to another tenant during the initial one-fourth ($\frac{1}{4}$) of the lease term. This provision does not apply to a lease period which is less than nine months and does not prevent a landlord from mitigating their damages after an eviction or a lease termination. MGO § 32.12(9).

SB 107 could also impact MGO § 32.05, which states in relevant part:

(d) Except as provided in Subdivision (e), entering on a tenant's leased property including the shared areas within a single dwelling unit without at least twenty-four (24) hours notice of the specific date and approximate time of entry unless the tenant approves a shorter period of notice on a case by case basis, except when the landlord reasonably believes that entry is necessary to preserve or protect the premises from damage or destruction which is not intentionally caused by the landlord.

(e) Entering upon a tenant's leased premises solely to show the property for sale or lease without at least twenty-four (24) hours notice, the notice shall indicate the exact time of entry and the length of stay not to exceed a combined total of three (3) hours per day and shall cover not more than three consecutive days, unless the tenant approves a shorter period of notice or a larger window of availability on a case-by-case basis. (Am. By ORD-10-00016, 2-18-10)

Nothing in the local ordinances prohibits a landlord from entering the property; it just requires 24 hours written notice and a more specific time for entry. Written notice requirements benefit both tenants and landlords and it provides for a record of notice of entry to protect landlords from false charges of trespassing and obviously provides tenants with a meaningful notice of when their landlord will be entering. These ordinances protect a tenant's right to privacy and exclusive possession of the premises and place a minimal burden on the landlord to provide the tenant with a relatively narrow window of time for expected entry. The protections in these ordinances foster positive tenant/landlord relations.

5. SB 107 Repeals Madison Ordinances which Prevent Security Deposit Disputes

Lease and security deposit disputes are the subject of the second largest number of consumer protection complaints filed every year with the Department of Agriculture Trade and Consumer Protection, yet SB 107, as amended, provides:

No city, village, town, or county may enact an ordinance that places requirements on a residential landlord with respect to security deposits or earnest money or pretenancy or posttenancy inspections that are additional to the requirements under administrative rules related to residential rental practices.

Madison provides some additional restrictions on withholding of security deposits to prevent wrongful withholding and the primary restrictions are discussed herein. In Madison, if the landlord fails to comply with the security deposit ordinance by failing to comply with the check-in and check-out process, failing to comply with the requirements for the written itemized statement, failing to provide photographs requested, or failing to comply with the limits on security deposits, the landlord forfeits its right to withhold the deposit. MGO § 32.07(9). AB 155/ SB 107 prevents assessment of treble damages for egregious Landlord Actions when withholding a security deposit which acts as an additional deterrent for wrongful withholding. MGO § 32.07(10). It is important to note that the Madison ordinance explicitly does *not* prevent a landlord from going to court to recover damages from the tenant. MGO § 32.07(12).

The Tenant Resource Center, which provides statewide housing counseling to tenants and

landlords, reports that callers from outside of Madison report more problems with their security deposit as those inside the City of Madison. Security deposit make up about 25% of all Madison calls whereas they make up about 33% of all statewide calls, excluding Madison. Over twice as many statewide tenants are calling because their landlord failed to return their security deposit. Almost twice as many called with a dispute over deductions and violations of the 21 day rule and three times as many for deductions for carpet cleaning. These figures demonstrate that the Madison ordinance helps both sides avoid security deposit disputes because it provides a better procedure for documenting damages prior to and at the end of the tenancy. The state should not get in the way of good local policy that mitigates one of the top consumer protection complaints in this state. To the extent the legislature is interested in greater uniformity with respect to security deposit requirements, it should expand Madison's ordinance statewide.

a. SB 107 Interferes with Local Law Requiring Use of Check-In and Check-Out Procedures and Landlords Documenting Damages Charged to Security Deposit with Photographs.

The Madison ordinance mostly tracks the language in Wis. Admin Code § ATPC 134.06, but adds some additional assurances that tenants security deposits are not unlawfully withheld. These protections require the use of a written "Check-In and Check-Out procedure and require the landlord provide a copies of the check-in form at the beginning of the tenancy and the check-out form prior to the termination of the tenancy. MGO § 32.07(5). Madison also requires the landlord to give the tenant written notice that the tenant has an opportunity to review photographs maintained by the landlord documenting physical damages or defects charged to the previous tenant's security deposit. MGO § 32.07(5)(b)2. Madison merely adds a nominal requirement to existing state law as the landlord is required to provide the tenant of written notice that the tenant may inspect the dwelling unit and notify the landlord of any preexisting damages or defects and request a list of physical damages or defects, if any charged to the previous tenant's security deposit. Wis. Admin Code § ATPC 134.06(1). The only difference is that because Madison also requires landlords to maintain photographs of damages or defects charged to a tenant's security deposit, it requires the landlord to notify the tenant of the right to inspect those photographs.

State law requires a landlord to provide the tenant with the security deposit within 21 days less the amounts properly withheld. Wis. Admin Code § ATPC 134.06(2). If any portion is withheld, the landlord must deliver an itemized statement of damages within that same time period pursuant to ATPC 134.06(4). Madison further requires that the landlord provide applicable receipts and estimates including the necessary hours and the wage rate for the work done or to be done and any rent credit due, and a notice that the tenant will be provided a copy of the photographs documenting any damages waste or neglect of the premises being charged to the tenant if requested by the tenant within 30 days of the notice. MGO § 32.07(7)(b).

b. AB 155/ SB 107 Eliminates Madison Rent Credit for Interest on Security Deposits, Permits Landlords to Simultaneously Hold Deposits for Tenants and Subtenants and Lifts the Limit on Security Deposit Amounts.

Madison ordinance requires landlords provide rent credit for interest on security deposits unless the security deposit amounts to less than fifty percent (50%) of one (1) month's rent. MGO §

32.07(2)(c). This bill also lifts a Madison restriction which limits security deposits to one month's rent. MGO § 32.07(2)(b). Moreover, this bill rescinds a Madison restriction which prohibits a landlord from simultaneously holding "a security deposit given by a tenant and a sub-tenant of the same rental premises unless the total of the deposits made by the parties does not exceed the equivalent of one month's rent." MGO § 32.07(2)(d). The purpose of a security deposit is to provide the landlord security in a residential tenancy for security of the performance of the tenant's obligations, not to allow housing providers to collect interest on a bunch of tenants' money. Rescinding these ordinances is merely an upward redistribution of wealth from those with less political and bargaining power to those with more money and more political bargaining power.

Conclusion

AB 155/SB 107 would eliminate significant policy achievements in the City of Madison and Dane County to provide greater housing opportunity traditionally marginalized populations, including persons with an arrest and conviction records and persons with very limited, low and fixed income, like those supporting themselves on a disability check. This bill, if passed, would also frustrate current efforts to promote solutions to combat homelessness. This entire bill appears to deprive local government of the ability to respond to local concerns and enhance tenant protections from abuse. Dane County has one of the highest renter populations in the state. One-half of all Madison residents are renters. Dane County is home to a diverse population of college students, families, elderly and an urban concentration of homeless persons. We need the ability to deal locally with problems like homelessness, poverty and substandard housing by creating greater opportunity for our residents, enhanced accountability for maintenance of the rental housing stock, and fairness in landlord tenant practices.

To: Members of the Assembly Housing Committee

From: Roger M Cagann, President of Axiom Properties, Inc

Date: June 22, 2011

RE: Support for Senate Bill 107 regarding landlord regulations

I urge you to support Senate Bill 107. As a Wisconsin Property Owner and Landlord since 1985 who specializes in workouts of nonperforming and underperforming rental properties, it is essential that the rights protected in this bill are preserved.

House Bill 107 Protects two essential rights currently afforded to Landlords. First the right to screen prospective residents and secondly the right to show and pre-lease apartments. Communities that pass legislation that interferes with these rights always have unintended consequences.

Axiom Properties, Inc and its principals have turned around in excess of 15,000 multifamily units in the United States and Canada. In nearly 100% of all these failed rental communities the Landlord failed to properly screen their residents. Over the long run rental communities fail when tenants are placed in apartments they cannot afford. Good residents leave when neighbors continually have noise complaints and do not follow the rules. Maintenance and repairs suffer when rent is not paid in a timely manner and properties cannot cash flow. Landlords can avoid all of these issues with proper screening of prospective residents.

It is imperative that landlords retain the right to show and pre lease occupied apartments. Axiom Properties, Inc. currently manages nine rental communities in Wisconsin consisting of over 2,500 apartments. In student housing for example it is essential to show pre lease our units. If we had to wait for a lease to expire to show an apartment or sign a new contract we would have to rent all of our student housing units

in only a few days, this would be impossible and lead to the failure of the community. With conventional housing pre-leasing is essential to stay competitive. Every day an apartment sits vacant there is a cost which must be spread to the other residents. This may not happen immediately but over time, these costs must be passed along to the other residents. If not the downward spiral of lack of cash flow, differed maintenance and substandard care of the buildings will cause the community to fail.

Currently in Madison there is a security deposit ordinance which limits the amount of deposit which a Landlord can require. The intentions of this rule were good. It was an attempt to provide tenants of lesser means the opportunity to rent. The untended consequences of the ordinance had the opposite effect. I was a landlord in Madison when the ordinance passed. At the time we were charging one month's rent as standard security deposit. If an applicant was close to qualifying but their credit score was low or they had no rental history we would routinely take a risk on leasing to the prospect with a double security deposit. Since the ordinance has passed we stopped taking the risk and thus fewer housing units are available to the marginal tenant. In other communities we still practice this policy of increased deposits, marginal prospects still have the opportunity to lease.

Senate Bill 107 protects the Landlords rights to screen tenants, show and prelease apartments and enter contracts with qualified individuals. This Bill must be passed. Much like the housing bubble in 2008, where home buyers who were not qualified to own were allowed to purchase homes, if tenants who are not qualified are allowed to rent the end result is the same, failure whether it ends in foreclosure or eviction.

Amy Bliss
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June 8, 2008

Public testimony before the Assembly Committee on Insurance and Housing.

Wisconsin Housing Alliance represents over 500 manufactured home communities in Wisconsin that serve about 32,000 land-lease rental sites. The goal of all landlords we represent is to have 100% occupancy with good tenants that pay their rent, follow the rules and do no harm to their neighbors. They want the homes of their tenants to be safe and secure. The only way to assure this is to properly screen tenants.

Overreaching municipal ordinances that prohibit proper tenant screening makes this goal extremely difficult if not impossible. Municipalities often prohibit certain tenant screening criteria but then blame the landlord when the property becomes run down with criminal activity. Evictions can cost thousands of dollars so proper screening is absolutely critical for the safety of other tenants as well as the financial viability of the property. Anyone who claims to support affordable housing needs to be supportive of this bill.

It is amazing to me that there are municipalities who put criminals and those people that don't pay their bills into a protected class category when it comes to housing. They refer to proper screening as "discrimination." That is an absolute insult to those that are truly in a protected class.

We strongly support AB155 and ask for passage.



TOWN OF MADISON

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www.town.madison.wi.us/police/index.html



June 7, 2011

Senate Committee:

I fully support Senate Bill 107 to allow landlords to use good screening tools when renting apartments. A landlord's use of good screening tools, can be the deciding factor in the quality of life in many neighborhoods.

It simply doesn't make sense to prohibit a landlord from using monthly household income, rental history, or credit information in screening perspective tenants. Like mortgage companies, who need to make a determination whether to loan a person money to purchase a home, a landlord needs to determine if the perspective tenant is a "good risk" and will most likely pay their rent.

Just as important is a prospective tenant's criminal history including arrest and conviction records. A tenant using and/or selling illegal drugs can cause major problems in a neighborhood and greatly decrease the quality of life.

In April, the Town of Madison Police Department served a search warrant on an apartment where a tenant was selling and using drugs. In April the police department responded to 28 calls for service at this apartment building. The tenant vacated the apartment prior to May 1 after the search warrant was served. In May the police department responded to 1 call for service at this apartment building. The quality of life increased for everyone else in that apartment building.

Most landlords would prefer not to go through an eviction process and constantly re-rent apartments. I believe they would prefer to simply not rent to persons they can predict will not pay rent or cause problems for their property, other tenants and those that live in the neighborhood. What a person has done in the past is an excellent indication of what they will do in the future. Predictable is Preventable.

As the Town of Madison Police Chief, I stand with the Apartment Association of South Central Wisconsin in support of Senate Bill 107.

Respectfully,

Scott T. Gregory
Chief of Police



TO: Members of the Assembly Housing Committee
FROM: Steve Brown, President of Steve Brown Apartments
Madison, Wisconsin
DATE: June 22, 2011
RE: Support for Assembly Bill 155 regarding landlord regulations

I urge your support for AB 155. This legislation prohibits local ordinances from placing certain unfair and unnecessary limits on rental property owners and managers. This legislation strikes the right balance between the rights of both tenants and landlords.

Our company has been in the business of providing quality residential rental living in the Madison area for over 30 years. Our business includes my personal passion for meeting the housing needs of UW-Madison students. It is essential, particularly in these hard economic times, that private housing providers be able to offer quality, affordable rental housing. Micromanagement and excessive regulation of our industry hampers our ability to do so by raising operational costs without improving the quality, safety or availability of quality rental housing options.

There will undoubtedly be those who will argue that this bill limits or restricts renter rights. Nothing could be further from the truth. This bill is, rather, about protecting private property rights and ensuring that renters will have access to safe, appropriate, affordable housing.

Benefits of the bill

AB 155 protects renter safety by protecting the ability of private housing providers to confirm that the individuals to whom they are renting their rooms and/or apartments do not represent a danger to other tenants or neighbors. AB 155 also protects renter access to appropriate, affordable housing by allowing private housing providers to manage their properties cost-effectively and to invest in property maintenance and improvements instead of being forced to spend money on unnecessary, counterproductive regulatory expenses. Reviewing credit history, income and rental history, for example, are non-discriminatory business tools that provide critical information to property managers trying to manage their businesses effectively and protect their tenants from higher rental rates caused by excess turnover. Finally, AB 155 allows owners to contract with prospective residents to avoid unnecessary vacancies without violating the rights of current tenants, providing an important measure of economic certainty for owners and remaining tenants.

It is important to note that existing federal, state and county fair housing laws dealing with discrimination are comprehensive and effective and are not affected by this legislation.

Amendments

As originally drafted, this legislation forbids local ordinances that “prohibit” landlords from showing an apartment to a prospective renter or entering into a contract with that prospective renter while the rental unit is occupied. (Section 1 (2) (c) and (d), page 2, lines 17-20) The bill could and should be amended to also forbid ordinances that “limit” those activities, consistent with the intent of the legislation. Absent this change, the existing language could render this section of the bill useless. Senate Bill 107, the companion bill to AB 155, was amended to include this recommendation (Senate Amendment 2). SB 107 was also amended to include local ordinances dealing with security deposits (SA 3 to SB 107). We support that amendment as well.

Benefits to owners, tenants and communities

As property owners, we have a duty to the communities in which we own and manage properties to help ensure that they are enjoyable and safe communities. We also owe our tenants the ease of mind that their rental homes are safe and well-managed. We cannot meet these responsibilities if the proven, non-discriminatory business tools we need to run our businesses are stripped away by unfair over-regulation that ultimately hurt renters, property owners and communities.

I urge your support for AB 155 with the suggested addition recommended above. Thank you for considering my comments.